

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE: :  
: CASE NO: 10-76360-WLH  
SUBTLE ELEGANCE, LLC, :  
: CHAPTER 11  
DEBTOR. :

**MOTION TO FIND ATTORNEY GRADY A. ROBERTS TO BE IN CONTEMPT  
OF THE JULY 27, 2010 ORDER OF THE COURT**

The United States Trustee for Region 21 in furtherance of his administrative responsibilities imposed and in accordance with 11 U.S.C. § 329 and Bankruptcy Rules 2014, 2016 and 2017(b), files this *Motion to Find Attorney Grady A. Roberts to be in Contempt of the July 27, 2010 Order of the Court*, and in support therefor states as follows:

1.

On or about June 17, 2010, the United States Trustee filed a motion seeking, *inter alia*, disgorgement of fees and a request for imposition of sanctions (the “Motion”) against Attorney Grady A. Roberts and Roberts Law, LLC (collectively “Roberts”). In the Motion the United States Trustee argued that Roberts’ actions in this case justified judicial review of his compensation pursuant to 11 U.S.C. § 329. As stated in the Motion, Roberts failed to file the basic documents required in a chapter 11 case. Roberts failed to appear at the initial debtor interview and failed to appear in any meaningful way at the section 341(a) meeting of creditors. Among the numerous documents Roberts neglected to file on behalf of the debtor is a Rule 2016(b) Attorney Disclosure of Compensation Form or an application to be employed as attorney for the debtor.

2.

The Court conducted a hearing on the Motion on July 15, 2010. Present at the hearing was Vivieon E. Kelley, counsel for the United States Trustee. There was no appearance at the hearing by Roberts.

3.

At the hearing the United States Trustee also expressed concerns about the lack of transparency regarding the relationship between the debtor and Roberts - a relationship where Roberts has a statutory requirement to fully disclose all of his connections with the debtor, including, but certainly not limited to, the amount of compensation received in connection with the filing of the case.

4.

On July 27, 2010, the Court entered an order granting the Motion. Pursuant to the order of the Court, within 20 days of the entry of the order, Roberts was directed to file a verified pleading stating the total amount of fees he received from all sources in connection with the filing of this case. Roberts was then directed to disgorge the total amount of fees he and his firm received in connection with the filing of the case; to pay such fees into the registry of the Court; and to file with this Court a verified certificate attesting to such disgorgement.

5.

A review of the docket at 10:00 a.m. on Thursday, August 19, 2010, reveals no

verified pleading stating the total amount of fees Roberts received in connection with the filing of the case and no such certificate attesting to a disgorgement filed by Roberts. See “Exhibit A”.

6.

Upon information and belief, Roberts’ failure to file a verified pleading stating the total amount of fees he and his firm has received from all sources in connection with the filing of this case; to disgorge the fees he received in this case; and file the certificate attesting to said disgorgement is in defiance of the specific direction of the Court. Accordingly, Roberts should be considered to be in contempt of court.

WHEREFORE, the United States Trustee prays for

- (i) the entry of an order finding Roberts to be in contempt of court;
- (ii) Roberts to be subject to additional monetary sanctions in an amount deemed appropriate by the Court;
- (iii) Roberts to be potentially subject to non-monetary sanctions including incarceration until he files the ordered 2016 statement and disgorges the funds; and
- (iv) such further relief as the Court deems necessary and appropriate.

DONALD F. WALTON  
UNITED STATES TRUSTEE  
REGION 21

By: /s/ Vivieon E. Kelley  
Vivieon E. Kelley, Esquire  
Georgia Bar No. 143033  
United States Department of Justice  
*Office of the United States Trustee*  
Suite 362, Richard B. Russell Building  
75 Spring Street, SW  
Atlanta, Georgia 30303  
404-331-4437, ext. 125  
[vivieon.e.kelley@usdoj.gov](mailto:vivieon.e.kelley@usdoj.gov)

**CERTIFICATE OF SERVICE**

I hereby Certify that a true and correct copy of the United States Trustee's *Motion to Find Attorney Grady A. Roberts to be in Contempt of the July 27, 2010 Order of the Court* was sent by First Class United States Mail to the following parties in interest:

Subtle Elegance, LLC  
Unit M-8  
3781 Martin Luther King, Jr. Drive  
Atlanta, GA 30331

Grady A. Roberts  
Roberts Law, LLC  
191 Peachtree Street, Ste. 3300  
Atlanta, GA 30303

Done this 19th day of August, 2010.

By: /s/ Vivieon E. Kelley  
Vivieon E. Kelley  
Trial Attorney

# **EXHIBIT A**

**U.S. Bankruptcy Court  
Northern District of Georgia (Atlanta)  
Bankruptcy Petition #: 10-76360-wlh**

*Date filed:* 06/01/2010

*Date converted:* 07/22/2010

*Assigned to:* Judge Wendy L. Hagenau

Chapter 7

Previous chapter 11

Voluntary

No asset

***Debtor***

**Subtle Elegance, LLC**

Unit M-8

3781 Martin Luther King, Jr. Drive

Atlanta, GA 30331

Tax ID / EIN: 43-2052181

represented by **Grady A. Roberts**

Roberts Law, LLC

Ste. 3300

191 Peachtree Street

Atlanta, GA 30303

404-794-7000

***Trustee***

**Jason L. Pettie**

Suite 150 - One Decatur Town Center

150 E. Ponce de Leon Avenue

Decatur, GA 30030

(404) 638-5984

*TERMINATED: 07/27/2010*

***U.S. Trustee***

**Office of the US Trustee**

Suite 362

75 Spring Street, SW

Atlanta, GA 30303

404-331-4437

represented by **Vivieon E. Kelley**

Office of the United States

Trustee

362 Richard Russell Building

75 Spring Street, SW

Atlanta, GA 30303

(404) 331-4437, ext. 125

Fax : (404) 331-4464

Email:

vivieon.e.kelley@usdoj.gov

Filing Date	#	Docket Text
06/01/2010	<a href="#"><u>1</u></a>	Case Opened and Voluntary Petition Filed. Government Proof of Claim due by 11/27/2010. Chapter 11 plan due by 11/27/2010. Disclosure Statement due by 11/27/2010. (jla) Additional attachment(s) added on 6/2/2010 (wrw).
06/01/2010	<a href="#"><u>2</u></a>	Notice of Appearance (Attorney) filed by Vivieon E. Kelley on behalf of Office of the US Trustee. (Kelley, Vivieon)

06/01/2010		***CHECK RETURNED DUE TO INSUFFICIENT FUNDS***Receipt of Chp 11 Full filing fee. Receipt Number 1141657. Fee Amount \$1,039.00. Paid by Grady A. Roberts. Modified on 6/24/2010 (Laney, Jessica).
06/01/2010	<a href="#">3</a>	Notice of deficient filing regarding bankruptcy petition. Service by BNC. Balance Sheet Date: 6/8/2010. Statement of Operations Due 6/8/2010. Cash Flow Statement due 6/8/2010. Schedule(s) A,B,D,E,F,G,H due by 6/15/2010, Summary of Schedules due 6/15/2010. Statement of Financial Affairs due 6/15/2010. Atty Disclosure State. due 6/15/2010. Corporate Resolution due 6/15/2010. 11 USC 521(i) Filings due by 7/16/2010. Tax Return Date: 6/8/2010 (wrw) (Entered: 06/02/2010)
06/02/2010	<a href="#">4</a>	Notice of Case Reassignment. Service by BNC. (diw)
06/03/2010	<a href="#">5</a>	Notice of Meeting of Creditors (Chapter 11). 341 Meeting to be held on 7/8/2010 at 01:00 PM at Hearing Room 368, Atlanta. (wrw)
06/04/2010	<a href="#">6</a>	Certificate of Mailing by BNC of Case Reassignment Notice. Service Date 06/04/2010. (Admin.) (Entered: 06/05/2010)
06/04/2010	<a href="#">7</a>	Certificate of Mailing by BNC of Notice of Deficiency Service Date 06/04/2010. (Admin.) (Entered: 06/05/2010)
06/05/2010	<a href="#">8</a>	Certificate of Mailing by BNC of Notice of Meeting of Creditors Service Date 06/05/2010. (Admin.) (Entered: 06/06/2010)
06/07/2010	<a href="#">9</a>	Notice of Appearance (Attorney) filed by Lawrence R. Landry on behalf of Jerry A. Vaughn. (Landry, Lawrence)
06/16/2010	<a href="#">10</a>	Motion to Prohibit Use of Cash Collateral <i>and for Expedited Hearing</i> filed by Lawrence R. Landry on behalf of Jerry A. Vaughn. (Attachments: # <a href="#">1</a> Exhibit A# <a href="#">2</a> Exhibit B) (Landry, Lawrence)
06/16/2010	<a href="#">11</a>	Notice of Hearing <i>on Motion to Prohibit Use of Cash Collateral</i> filed by Lawrence R. Landry on behalf of Jerry A. Vaughn. Hearing to be held on 6/29/2010 at 03:00 PM in Courtroom 1201, Atlanta, (related document(s) <a href="#">10</a> Motion to Prohibit Use of Cash Collateral filed by Jerry A. Vaughn)(Landry, Lawrence)
06/16/2010		Receipt of Chp 11 Installment filing fee. Receipt Number 1142305. Fee Amount \$1,039.00. Paid by GRADY A. ROBERTS. NSF Check was satisfied. Modified on 6/24/2010 (Laney, Jessica).

06/17/2010	<a href="#">12</a>	Motion to Dismiss Case for Cause - Motion to (i) Dismiss Case and (ii) Review and Disgorge Attorneys' Fees filed by Vivieon E. Kelley on behalf of Office of the US Trustee. Hearing to be held on 7/15/2010 at 01:30 PM in Courtroom 1403, Atlanta, (Kelley, Vivieon)
06/30/2010	<a href="#">13</a>	Order GRANTING Motion of Jerry Vaughn to Prohibit Use of Cash Collateral. (Related Doc # <a href="#">10</a> ) Service by BNC. Entered on 6/30/2010. (jkh)
06/30/2010	<a href="#">14</a>	Notice of Appointment of Ch. 11 Trustee ( <i>Jason L. Pettie</i> ) Filed by Vivieon E. Kelley on behalf of Office of the US Trustee. (Kelley, Vivieon)
06/30/2010	<a href="#">15</a>	Application for Approval of Appointment of Trustee Filed by Vivieon E. Kelley on behalf of Office of the US Trustee. (Attachments: # <a href="#">1</a> Verified Statement of Jason L. Pettie)(related document(s) <a href="#">14</a> Notice of Appointment of Ch. 11 Trustee filed by Office of the US Trustee) (Kelley, Vivieon)
07/01/2010	<a href="#">16</a>	Order GRANTING Motion for Approval of Appointment of Jason L. Pettie As Chapter 11 Trustee. (Related Doc # <a href="#">15</a> ) Service by BNC. Entered on 7/1/2010. (jkh)
07/02/2010	<a href="#">17</a>	Certificate of Mailing by BNC of Order on Motion to Prohibit Use of Cash Collateral Service Date 07/02/2010. (Admin.) (Entered: 07/03/2010)
07/03/2010	<a href="#">18</a>	Certificate of Mailing by BNC of Order Appointing Trustee Service Date 07/03/2010. (Admin.) (Entered: 07/04/2010)
07/04/2010	<a href="#">19</a>	Certificate of Mailing by BNC of Notice of Appointment of Trustee Service Date 07/04/2010. (Admin.) (Entered: 07/05/2010)
07/08/2010		Continued or Reset Section 341(a) meeting not held because debtor has not filed or submitted required documents.. (jcm) (Entered: 07/15/2010)
07/12/2010	<a href="#">20</a>	Request for addition to list of creditors and request for notices filed by Joel Aldrich Jothan Callins on behalf of Bayview Loan Servicing LLC. (Callins, Joel Aldrich)
07/14/2010		The United States Trustee for Region 21 reports that no committee of creditors holding unsecured claims has been appointed in this case. Filed by Vivieon E. Kelley on behalf of Office of the US Trustee. (Kelley, Vivieon)



07/20/2010	<a href="#">21</a>	Motion for Relief from Stay , <i>Notice of Hearing and Waiver</i> , Fee \$ 150 filed by Lawrence R. Landry on behalf of Jerry A. Vaughn. Hearing to be held on 8/12/2010 at 02:30 PM in Courtroom 1403, Atlanta, (Attachments: # <a href="#">1</a> Exhibit A) (Landry, Lawrence)
07/20/2010	<a href="#">22</a>	Receipt of Motion for Relief from Stay(10-76360-wlh) [motion,185] ( 150.00) filing fee. Receipt Number 20908290. Fee Amount 150.00 (U.S. Treasury)
07/22/2010	<a href="#">23</a>	Order Converting Case to Chapter 7 Service by BNC. Entered on 7/22/2010. (related document(s) <a href="#">12</a> Motion to Dismiss Case filed by Office of the US Trustee)(png)
07/24/2010	<a href="#">24</a>	Certificate of Mailing by BNC of Order Service Date 07/24/2010. (Admin.) (Entered: 07/25/2010)
07/27/2010	<a href="#">25</a>	Notice of Appointment of Interim Trustee <i>Jason L. Pettie</i> and Rescheduled Meeting of Creditors. Filed by Martin P. Ochs on behalf of Office of the US Trustee. 341 Meeting to be held on 8/18/2010 at 11:00 AM at Hearing Room 365, Atlanta. (Ochs, Martin)
07/28/2010	<a href="#">26</a>	Order, that within twenty (20) days from date hereof, Grady A. Roberts is DIRECTED to file a verified pleading stating the total amount of fees he and his firm have received from all sources in connection with the filing of this case, both pre-petition and post-petition; Further, within twenty (20) days from date hereof, Grady A. Roberts is directed to disgorge the total amount of the fees he and his firm received and pay the fees into the registry of the Court, followed by the filing of a certificate attesting to such disgorgement; Further provisions noted. Service by BNC. Entered on 7/28/2010. (luc)
07/30/2010	<a href="#">27</a>	Notice of Meeting of Creditors (Chapter 7). 341 Meeting to be held on 8/18/2010 at 11:00 AM at Hearing Room 365, Atlanta. (png)
07/30/2010	<a href="#">28</a>	Certificate of Mailing by BNC of Order Service Date 07/30/2010. (Admin.) (Entered: 07/31/2010)
07/30/2010	<a href="#">29</a>	Certificate of Mailing by BNC of Notice Appointing Trustee Service Date 07/30/2010. (Admin.) (Entered: 07/31/2010)
08/01/2010	<a href="#">30</a>	Certificate of Mailing by BNC of Notice of Meeting of Creditors Service Date 08/01/2010. (Admin.) (Entered: 08/02/2010)
		Order GRANTING Motion for Relief from Stay by Jerry Vaughn.

08/17/2010	<a href="#">31</a>	(Related Doc # <a href="#">21</a> ) Service by BNC.. Entered on 8/17/2010. (luc)
------------	--------------------	---

PACER Service Center			
Transaction Receipt			
08/19/2010 10:00:19			
<b>PACER Login:</b>	xz0162	<b>Client Code:</b>	
<b>Description:</b>	Docket Report	<b>Search Criteria:</b>	10-76360-wlh Fil or Ent: filed From: 1/1/1989 To: 8/19/2010 Doc From: 0 Doc To: 99999999 Term: included Format: html
<b>Billable Pages:</b>	3	<b>Cost:</b>	0.24

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE: :  
: CASE NO: 10-76360-WLH  
SUBTLE ELEGANCE, LLC, :  
: CHAPTER 11  
DEBTOR. :

**NOTICE OF HEARING**

PLEASE TAKE NOTICE that the Court will hold a hearing on the United States Trustee's *Motion to Find Attorney Grady A. Roberts to be in Contempt of the July 27, 2010 Order of the Court* on **September 9, 2010, at 1:30 p.m.**, in **Courtroom 1403**, Richard Russell Federal Building and United States Courthouse, 75 Spring Street, S.W., Atlanta, Georgia 30303.

Your rights may be affected by the Court's ruling on this pleading. You should read the motion carefully and discuss it with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.) If you do not want the court to grant the relief sought in the motion or if you want the Court to consider your views, then you or your attorney must attend the hearing.

You may also file a written response to the motion with the Clerk of the Bankruptcy Court, but you are not required to do so. Mail or deliver your response so that it is received by the Clerk at least two business days before the hearing. The address of the Clerk's office is: Clerk, U.S. Bankruptcy Court, Suite 1340, 75 Spring Street, Atlanta, Georgia 30303. If you file a written response, you must attach a certificate stating when, how, and on whom (including addresses) you served the response. You must mail a copy of your response to the undersigned at the address stated below.

Notice given by: DONALD F. WALTON  
UNITED STATES TRUSTEE, REGION 21

s/ Vivieon E. Kelley  
Vivieon E. Kelley  
Georgia Bar No. 143033  
United States Department of Justice  
Office of the United States Trustee  
362 Richard B. Russell Building  
75 Spring Street, SW  
Atlanta, Georgia 30303  
(404)-331-4437  
vivieon.e.kelley@usdoj.gov

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the United States Trustee's *Motion to Find Attorney Grady A. Roberts to be in Contempt of the July 27, 2010 Order of the Court* and the notice of hearing thereon was sent by First Class United States Mail to the following parties in interest:

Subtle Elegance, LLC  
Unit M-8  
3781 Martin Luther King, Jr. Drive  
Atlanta, GA 30331

Grady A. Roberts  
Roberts Law, LLC  
191 Peachtree Street, Ste. 3300  
Atlanta, GA 30303

Lawrence R. Landry  
6000 Lake Forrest Drive, NW, Suite 325  
Atlanta, GA 30328

Silver Hill Financial, LLC  
4425 Ponce De Leon Blvd, 5<sup>th</sup> Floor  
Coral Gables, GL 33146

Bayview Loan Servicing  
P.O. Box 3042  
Milwaukee, WI 53201-3042

Done this 19th day of August, 2010.

By: /s/ Vivieon E. Kelley  
Vivieon E. Kelley